

NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES
City Council Chambers
Wednesday, October 14, 2015
6:30 PM

1) CALL MEETING TO ORDER

The meeting was called to order at 6:30 PM.

2) ROLL CALL

Commissioners: Dave Girling, Chair
 Brad Avery
 Paul Blank
 William Kenney, Jr.
 Duncan McIntosh
 Joe Stapleton
 Doug West

Staff Members: Chris Miller, Harbor Resources Manager
 Shannon Levin, Harbor Resources Supervisor

Chair Girling noted the attendance of Council Member Duffield and reported he will be Council Liaison to the Harbor Commission, going forward.

3) PLEDGE OF ALLEGIANCE – Former Mayor and Council Member Nancy Gardner

4) PUBLIC COMMENTS

Former Mayor, Council Member and Liaison Nancy Gardner commented on an orphan program that needs care in terms of Marine Protected Areas, and referenced an upcoming study. She reported that the State has designed a number of signs, brochures, etc. for which there is a budget, but no one has been assigned to take the lead on same. She felt that the Harbor Commission may be interested in the program. She hoped a Commissioner will request placing this issue on a future agenda for discussion and action. She referenced a recent meeting of Marine Protected Areas, Orange County Council, and an application available for Members of the Commission to suggested topics of interest.

5) APPROVAL OF MINUTES – September 9, 2015 Minutes

Chair Girling opened public discussion.

Chair Girling closed public discussion.

Commissioner Blank offered corrections to the minutes.

Motion: Commissioner McIntosh made a motion to approve the minutes of the Harbor Commission meeting of September 9, 2015, as corrected. Commissioner Blank seconded the motion, which carried with 6 ayes, 0 noes and Commissioner Stapleton, abstaining. Approved.

6) CURRENT BUSINESS

1. *Mooring Revocations*

Mooring permits may be revoked due to failure to pay annual rental fees. According to Newport Beach Municipal Code (NBMC) Chapter 17.70, the Harbor Commission shall conduct a hearing prior to revoking a mooring permit.

Recommendation:

- 1) Hold a public hearing, consider the relevant evidence, and if justified under NBMC Sections 17.60.040(L)(1) and 17.70.020(A)(5), revoke mooring permit H-79 for failure to pay annual rental fees.
- 2) Hold a public hearing, consider the relevant evidence, and if justified under NBMC Sections 17.60.040(L)(1) and 17.70.020(A)(5), revoke mooring permit H-813 for failure to pay annual rental fees.
- 3) Hold a public hearing, consider the relevant evidence, and if justified under NBMC Sections 17.60.040(L)(1) and 17.70.020(A)(5), revoke mooring permit J-0087 for failure to pay annual rental fees.
- 4) Hold a public hearing, consider the relevant evidence, and if justified under NBMC Sections 17.60.040(L)(1) and 17.70.020(A)(5), revoke mooring permit J-0110 for failure to pay annual rental fees.
- 5) Hold a public hearing, consider the relevant evidence, and if justified under NBMC Sections 17.60.040(L)(1) and 17.70.020(A)(5), revoke mooring permit J-513 for failure to pay annual rental fees.
- 6) Hold a public hearing, consider the relevant evidence, and if justified under NBMC Sections 17.60.040(L)(1) and 17.70.020(A)(5), revoke mooring permit S-140 for failure to pay annual rental fees.
- 7) Hold a public hearing, consider the relevant evidence, and if justified under NBMC Sections 17.60.040(L)(1) and 17.70.020(A)(5), revoke mooring permit W-032 for failure to pay annual rental fees.

Harbor Resources Manager Miller introduced City Clerk Leilani Brown and Public Works Intern Patrick Achis.

Harbor Resources Supervisor Shannon Levin presented details of the staff report, noting multiple attempts to contact permittees who have fallen in arrears, and she addressed grounds for revocation, next steps after the Commission's decision, reversion of revoked moorings back to the City, tackle and vessels, details of the subject delinquent accounts, payment received today for Mooring Permit No. H-79, and recommendations.

Discussion followed regarding Permit H-79, appeal period, vessels still on the mooring, and exempting Permit H-79 as they have paid their mooring fees and are now current.

At the request of the Commission, Harbor Resources Supervisor Levin addressed efforts to contact permittees. She added that many of the names are repeat offenders.

Discussion followed regarding potential actions going forward to reduce staff's involvement.

Chair Girling opened public comments for the hearing.

Jim Mosher asked regarding the last, two smaller moorings, and the reason for the reduced fee amount.

Harbor Resources Supervisor Levin reported that the last two cases involve on-shore moorings which are charged per foot at a rate which is 50% of the off-shore mooring rates.

Additionally, it was noted that all mooring rates are annual fees.

Chair Girling closed public comments.

Council Member Duffield commented on the contract with the Harbor Patrol and felt that this task should be part of their work.

Motion: Commissioner Kenney made a motion to revoke mooring permit H-813 for failure to pay annual rental fees; revoke mooring permit J-0087 for failure to pay annual rental fees; revoke mooring permit J-0110 for failure to pay annual rental fees; revoke mooring permit J-513 for failure to pay annual rental fees; revoke mooring permit S-140 for failure to pay annual rental fees; revoke mooring permit W-032 for failure to pay annual rental fees. Commissioner Blank seconded the motion, which carried with 7 ayes, 0 noes. Approved.

Commissioner Kenney noted that the Code does not address timing or a late fee, and he opined that the Commission should consider that with the potential goal of asking Council to modify the code. He expressed concerns with having someone delinquent in mid-October for a payment due in January and felt there should be some sort of late penalty and that staff and the Commission should deal with these matters much more quickly than is presently done.

Harbor Resources Manager Miller reported that Council is in the process of considering changes to the Code in terms of mooring rules, fees and transfers, and it is his intention to figure out a way to incorporate and make the current system much stronger.

2. Harbor Commission 2015-16 Objectives: Review and Approve

The Harbor Commission ad hoc committee will review the proposed Objectives and recommend approval.

Recommendation:

- 1) Approve the proposed Harbor Commission's Objectives for 2015-16.

Chair Girling thanked Commissioner West for his time on this item and suggested that going forward, the Commission agree to develop goals and objectives in October of every year and that they are revised and returned to the Commission in November to vote on and approve and present to Council in early January. He suggested that rather basing them on fiscal years, that they become calendar year objectives. Additionally, he noted that the goals and objectives are fluid and subject to change during the course of the year. He suggested reviewing each goal and objective separately, and making appropriate assignments.

Regarding goal/objective No. 1, Commissioner Stapleton, Chair of the Committee, reported meeting with the Marine Committee and stated the Committee will continue to champion that effort in 2016.

Regarding goal/objective No. 2, Chair Girling assigned Commissioner Stapleton to the Committee. Commissioner Blank, Chair of the Committee, stated he is committed to making it happen.

Relative to goal/objective No. 3, Commissioner Avery, Chair of the Committee, stated he has nothing to report at this time.

In terms of goal/objective No. 4, Chair Girling assigned Commissioner Kenney to chair that Committee and Commissioners West and McIntosh as members. Commissioner Kenney stated he would be happy to work with Commissioners West and McIntosh on this goal.

Regarding goal/objective No. 5, Chair Girling assigned himself to that Committee with Commissioner Avery as Chair, working with Commissioner McIntosh. Commissioner Avery stated he is excited about the work, going forward and commented on Mr. Len Bose's comments regarding same.

Under goal/objective No. 6, Chair Girling reported that Commissioner West chairs that Committee and will continue to work with Commissioners Kenney and Stapleton.

Regarding goal/objective No. 7, Chair Girling reported that the Committee is chaired by Commissioner McIntosh who works with Chair Girling and assigned Commissioner Kenney to the Committee.

In terms of goal/objective No. 8, Chair Girling reported that the Committee is chaired by Commissioner Blank.

It was noted that the Committee is not yet active but that it was suggested that Commissioner Blank chair the Committee.

Chair Girling added that Commissioners McIntosh and Avery will join Commissioner Blank on that Committee.

Chair Girling noted that Commissioner McIntosh would like to share discussion on this matter. He stated he would like to discuss changes from last year's goals and objectives, including Lower Castaways. He indicated that will be an on-going effort, that there have been some successes and that the Commission decided it is not a priority at this time, but may be rejuvenated based on staff or Council directive. Another issue would be the water-taxi/bus and Chair Girling referenced an email from Shanda Lear-Baylor who offered ideas regarding a water bus. The latter, lost some momentum, and Chair Girling stated the Commission would be open to consider it, but needs direction from City Council.

Discussion followed regarding the Lido Marina Village project and whether it fits in with the Commission's new plans. Chair Girling stated it may be revised at a later discussion based on information received.

Chair Girling opened public comments.

Shanda Lear-Baylor, Lear Electric Boats, reported speaking to four Commissioners who agreed that, if it doesn't cost the City anything, the matter is worth continuing to consider. She stated that a "band-aid" has been proposed for a summer only, cheap, open water taxi and suggested considering it a "ride" and not transportation; it could be considered "liquid therapy." She commented on millennials being health conscious and noted that stress is one of the biggest causes of ailments. Providing peace and quiet for a few hours throughout the year would be very relaxing, and Ms. Lear-Baylor stated she would like to work with Chair Girling and outline what the program should be. She added that she considers it could be a year-round attraction. Additionally, she stated that she has investors who are interested in the venture to design water buses throughout the US and Canada waterfront cities. The money is there, but investors want to know what the City is going to offer. She added that she has a lot of ideas for how the program could work.

Commissioner West commented on past efforts regarding this matter and stated that the conclusion was that such a service could not be done without a substantial public subsidy and without formal consideration, and that it was not worthy of the Harbor Commission's recommendation that the City do such a thing. He commended Ms. Lear-Baylor for her involvement but noted the need for specifics. He added that the Harbor Commission will not work on the development of her plan but when she can return to the Commission with a credible business plan, the Commission will be happy to help the City evaluate it.

Ms. Lear-Baylor requested a private meeting with Chair Girling to discuss possibilities.

Chair Girling stated he will be happy to meet with her.

Len Bose suggested the Commission consider speaking with Pier Makers, to help them work with the various agencies.

Jim Mosher commented on the meeting and reporting processes of committees. He suggested that goal No. 8 is more of a directive or action and suggested assigning it to one person and direct them during regular meetings. He commented on goals carried over from last year and suggested having a specific target date for when recommendations should be made to the entire Commission.

George Hylkema expressed concerns regarding the next mooring bills and suggested that all the things the City requires be ready to present to the State Lands Commission for efficiency.

It was noted that the matter is currently being considered by City Council and the City. The City is waiting on the State Lands Commission to respond and is currently in a "holding pattern."

Chair Girling closed public comments.

Commissioner Stapleton asked regarding the status of derelict vessels and offered to tackle the problem on his own and work directly with Harbor staff.

Chair Girling spoke in support of Commissioner Stapleton's suggestion.

Another suggestion was made that staff put the idea in an objective form for consideration at the next Harbor Commission meeting.

Harbor Resources Manager Miller stated this would be a recurring objective and hoped for more success as during the upcoming years. He noted the need for clarity and definite goals.

It was noted that revised goals and objectives will be discussed at the Harbor Commission's next meeting.

Discussion followed regarding derelict boats and the number of outstanding mooring permits.

Members of the Harbor Commission concurred to continue this matter to the next regularly scheduled Harbor Commission meeting.

3. Harbor Patrol Update

Lieutenant Mark Alsobrook, Harbormaster, will update the Commission on the Harbor Patrol's operations.

Recommendation:

- 1) Receive and file.

Chair Girling reported meeting with the new Harbormaster and commented positively regarding efforts to build a rapport and a relationship between the Commission and the Harbor Patrol. He introduced Lieutenant Mark Alsobrook and encouraged all Commissioners to reach out to him and spend time with him.

Lieutenant Alsobrook provided an update on the Harbor Patrol's operations. He stated it is his goal to develop a working relationship with the Commission moving forward, and to report to the Commission on a quarterly basis. He asked for feedback from the Commission regarding items of interest. He addressed the evolution of the Sheriff's Department and in particular, the Harbor Patrol. He provided statistics related to tasks and to which the Harbor Patrol responds.

Discussion followed regarding derelict vessels, AB1323, derelict versus unsightly, priority issues and nuisance calls relative to the temporary anchorage area.

Chair Girling opened public comments.

Seeing no one wishing to address the Commission, Chair Girling closed public comments.

4. Copper in Newport Harbor – An Overview

Staff will present an overview of the copper Total Daily Maximum Load (TMDL) for Newport Harbor as required by the Water Board.

Recommendation:

- 1) Receive and file.

Harbor Resources Manager Miller presented an overview of copper in Newport Harbor. He noted the attendance of Public Works Director Dave Webb and reported he is available to respond to questions. He addressed TMDL, criteria in terms of copper, existing conditions, pockets that exceed the criteria, development of the proposed Harbor TMDL, Water Board regions throughout Southern California, a prior Water Board CEQA scoping meeting, expectations regarding the availability of a draft TMDL, and proposals and recommendations for the TMDL. He commented on dredging, noting that it has its complications; and provided a summary of the City's position in terms of water quality. Additionally, he addressed the need to update samples, models and data, the number of boats in the Harbor, sampling and the use of copper-based paints.

Public Works Director Webb noted that it is a complex issue and reported that the Department of Pesticides regulates paints. He addressed their allowance of a paint discharge rate of up to 9.95 PPB and commented on the rate allowed by the California Toxic Rule limit of discharge.

Harbor Resources Manager Miller addressed next steps and stressed that this should be a state-wide issue and should not be specific to Newport Harbor. He added that the current, approved low-copper paint needs time to take effect and addressed the current oversight.

Public Works Director Webb reported that the City does not control the paint and commented on a current lawsuit against the Regional Board regarding control of the paint.

Harbor Resources Manager Miller stated that the City wants to keep an open dialogue with the Water Board and to keep other cities in the loop. The City has been working on this for many years and Harbor Resources Manager Miller commented on boater advocacy groups, and on the City receiving a lot of technical help from Anchor QEA.

Discussion followed regarding other sources of copper besides bottom paint, areas with the higher concentrations of copper, the need to have some sort of abrasive for cleaning, the hull-cleaning practice in San Diego, the concentrations of copper in San Diego Bay, progress made by Marina del Rey, working with other marinas and possible options for solving the problem.

Council Member Duffield commented on the contributions of the Watershed Executive Committee. He stressed the importance for everyone to work hard on this matter.

Discussion followed regarding the goal of the Marine Management Plan to support marine-related businesses and the need for balance.

Chair Girling opened public comments.

Jim Mosher commented on the boat count and suggested there may be different ways of counting, and he wondered regarding the definition of Maximum Daily Load and a discharge rate of part per billion.

Public Works Direction explained TMDL in terms of sediment on a daily basis.

Discussion followed regarding studies quantifying the amount of pollutants in the harbor from spent jet fuels.

Len Bose commented on sampling data and provided references to sources of information regarding newer boat bottom paints.

Chair Girling closed public comments.

5. *Public Piers Report: Time Limits, Usage Characteristics and Recommendations*

Harbor Commissioner Paul Blank will present the ad hoc committee's findings and proposals for time limits and usages at the City's public piers.

Recommendation:

- 1) Review and endorse the Public Piers Ad Hoc Committee's proposals, then recommend to the Harbor Resources Manager that they be implemented.

Commissioner Blank suggested continuing this matter to the next Harbor Commission meeting.

Members of the Commission concurred to continuing this matter until the Commission's November meeting.

7) SUBCOMMITTEE REPORTS - None

8) QUESTIONS AND ANSWERS WITH COUNCIL LIAISON ON HARBOR RELATED ISSUES - None

9) QUESTIONS AND ANSWERS WITH HARBOR RESOURCES MANAGER ON HARBOR RELATED ISSUES

Harbor Resources Manager Miller provided an update on Marina Park and noted that the opening will be on December 5th, at 10:00 AM.

10) PUBLIC COMMENTS ON SUBCOMMITTEE REPORTS OR QUESTIONS AND ANSWERS WITH COUNCIL LIAISON OR HARBOR RESOURCES MANAGER

Len Bose commented positively on having the Harbormaster at the meeting tonight and commented on preparing for El Niño. He suggested obtaining information on various definitions from the Harbormaster.

George Hylkema asked what will happen when mooring bills go out in January, at \$55 per foot.

11) COMMISSION ANNOUNCEMENTS OR MATTERS WHICH MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION OR REPORT (NON-DISCUSSION ITEM)

Commissioner Avery made his vessel available for the opening of Marina Park.

Commissioner Blank offered his vessel as well.

It was noted that the Balboa Yacht Club Committee vessel will also be available.

It was noted that the Christmas Boat Parade will be from December 16th to December 20th.

Additionally, it was noted that the Local Coastal Plan goes before City Council on November 10th.

12) DATE AND TIME FOR NEXT MEETING: Monday, November 16, 2015 (different date than normal)

13) ADJOURNMENT

There being no further business to come before the Harbor Commission, the meeting was adjourned at 8:30 PM. The next meeting of the Harbor Commission will be held on Monday, November 16, 2015, at 6:30 PM.

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